

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAY 23 2005

OFFICE OF
MANAGING DIRECTOR

Leonor Ivette Rivera-Lebrón, Esq.
Regulatory Affairs Manager
TLD de Puerto Rico
Post Office Box 70325
San Juan, Puerto Rico 00936-8325

Re: Request for Waiver of FY 2003
Late Payment Penalty
Fee Control No. 00000RROG-05-044

Dear Ms. Rivera-Lebrón:

This is in response to your letter requesting waiver of a late payment penalty associated with the fiscal year (FY) 2003 regulatory fee for Telefónica Larga Distancia de Puerto Rico, Inc. (TLD). Our records reflect that \$40,028.46 for TLD's payment of its FY 2003 regulatory fee was received on September 26, 2003, but that the \$10,007.11 for the late payment penalty has not yet been received by the Commission.

In your letter, you state that you received an invoice from the FCC for an outstanding balance. A conversation with FCC staff revealed that it was for a late payment penalty corresponding to your FY 2003 regulatory fee. You state that you reviewed your records and found that you sent your payment on September 21, 2003, but that it apparently was not received by the FCC until September 26, 2003, a day after the fees were due. You then state that under normal circumstances the correspondence you send to the FCC is received within the next two days, but that the hurricane season apparently caused some delay. You point out that at that time, Hurricane Isabel passed through different states including Washington and may have caused the delay in the receipt of TLD's payment.

While we are sympathetic to your circumstances, section 9(c) of the Communications Act of 1934, as amended, requires the Commission to assess a late payment penalty of 25 percent on any regulatory fee not paid in a timely manner. See 47 C.F.R. § 1.1164. It is the obligation of the licensee responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory are the year. See 47 C.F.R. § 1.1157; see also *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15, 985 (2003) (2003 Report and Order). The Commission initially established September 24, 2003 as the filing deadline date for FY 2003 regulatory fees. See Public Notice, *Regulatory Fees Due September 24, 2003*, 18 FCC Rcd 15,857 (2003). On September 22, 2003, the Commission released a Public Notice stating that, due to the Washington, D.C. area experiencing power outages as a result of Hurricane Isabel, it was extending the filing deadline date to September 25,

2003. See Public Notice, *Federal Communications Commission Extends the Filing Deadline Date of FY 2003 Regulatory Fee*, 18 FCC Rcd 18,748 (2003). Thus, by extending the filing deadline, the Commission took into account any delays that may have been caused by Hurricane Isabel.

We find that TLD did not meet its obligation to file its regulatory fees to be timely received by the Commission by September 25, 2003, the final date of the regulatory fee filing window for FY 2003. We therefore deny your request for waiver of the penalty for late payment of your FY 2003 regulatory fees.

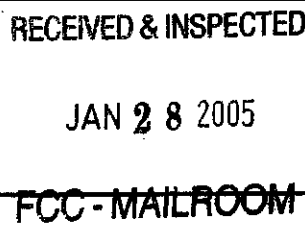
TLD's late payment penalty in the amount of \$10,007.11 is now due. It must be filed, together with a copy of Bill No.04AB000042, within 30 days from the date of this letter. If you have any questions concerning this matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

. 00000 R206-05-044



P.O. Box 70325
San Juan, Puerto Rico 00936-8325
(787) 749-5800

VIA FACSIMILE (202) 418-2840 & FEDEX

January 27, 2005

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th Street SW
Washington DC 20554

*2 dg letter
Assigned Regina
30 dg tickler
2/1/05*

Re: Bills for collection (invoice #04A8000042)
Telefónica Larga Distancia
FRN: 0007025059

Dear Mr. Fishel:

Recently, we received via facsimile an invoice for an outstanding balance which Telefónica Larga Distancia de Puerto Rico, Inc. (TLD) allegedly owes to the FCC.¹ The bill does not include an explanation of the charges; but after a conversation with the FCC's Finance Department personnel we were informed that the amount invoiced were late penalty fees corresponding to our regulatory fees payment of 2003. We have reviewed our records and found that such payment was sent on September 21st, 2003, but apparently the FCC received it on September 26, 2005, a day after the due date. It is important to emphasize that under normal circumstances the correspondence we send to the FCC is received within the next two days, but apparently the 2003 Hurricane Season caused some delay on the US Postal Office. I would like to bring to your attention that during the same date Hurricane Isabel passed for different states including Washington and this atmospheric disturbances may caused the inexplicable delay on the receipt of TLD's payment. TLD hereby respectfully requests the FCC to grant a waiver of such late payment penalty that were notified this year based on the fact that the payment arrived late due to the force majeure event not under the control of TLD. Also, I would like to request that in the interim the FCC does not consider this bill on default for purposes of the Red Light Display System until the FCC notifies its final decision on this request.

If you need further information, please do not hesitate to contact the undersigned at (787) 749-5800 ext. 5627.

Cordially,


Leonor Ivette Rivera-Lebrón, Esq.
Regulatory Affairs Manager

¹ Attached please find a copy of the bill.